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SUPREME COURT, U.S.
FILED

No. 06- 1614 2007

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IN THE

Supreme Court of the United States

KIMHONG THI LE,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether the warrantless search of a vehicle and its contents can be justified by a police officers' declaration that a vehicle is "impounded," although the vehicle is and remains in the custody of its owner's bailee, a tow truck the owner called to the scene.

2. Whether a vehicle can be declared to be "impounded" and searched without a warrant on the ground that it would be a hazard if left in place, when the vehicle's owner has made arrangements for its removal to the same safe location later chosen by the impounding officer.

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Kimhong Thi Le respectfully petitions this Court for a writ of certiorari directed to the United States Court of Appeals for the Eighth Circuit, to review the judgment described below.

OPINIONS AND ORDERS BELOW

The opinion of the United States Court of Appeals for the Eighth Circuit, affirming petitioner's conviction of possession of marijuana with intent to deliver, was issued on January 22, 2007, and is reported at 474 F.3d 511. A copy of the decision is attached to this petition as Appendix A.

The decision of the United States District Court for the District of North Dakota, denying a motion to suppress evidence offered by the government in support of its charges against petitioner, is reported at 402 F. Supp.2d 1068. A copy of the decision is attached to this petition as Appendix B.

JURISDICTIONAL STATEMENT

The jurisdiction of this Court to review the judgment of the Court of Appeals is conferred by 28 U.S.C. § 1254(1). The decision of the Court of Appeals was issued on January 22, 2007.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This case involves the Fourth Amendment to the Constitution of the United States, which provides in pertinent part: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated. . . ."

STATEMENT OF THE CASE

This petition seeks review of a decision of the United States Court of Appeals for the Eighth Circuit, affirming a District Court order that denied a motion to suppress evidence in a federal criminal prosecution for felony marijuana possession. Following the denial of the suppression motion, petitioner KimHong Le entered a conditional plea of guilty to possession of marijuana with intent to deliver in violation of 28 U.S.C. §§ 841(a)(1) and 841(b)(1)(D), reserving the right to appeal from the suppression ruling. App. 2a.

1. *The Search of Petitioner's Vehicle.*

On February 10, 2004, petitioner Kimhong Thi Le and Diana Courtney Duong were driving a rented SUV from Seattle, Washington to Minneapolis, Minnesota. App. 11a. On I-94 in western North Dakota, they drove into a blizzard. *Id.* Ms. Duong, who was driving, lost control of the vehicle and went off the interstate highway into a snow-covered ditch adjacent to the highway's eastbound lanes. App. 12a. The vehicle rolled onto its side, but neither woman was injured. *Id.*

The next morning, February 11, 2004, petitioner contacted East End Towing in Dickinson, North Dakota, to have the vehicle removed. *Id.* Sometime after 8:00 a.m., an East End Towing tow truck was dispatched in response to that call. *Id.*

At approximately 8:50 a.m. that same morning, North Dakota Highway Patrolman Will Vance encountered petitioner's vehicle, which was still in the ditch on its side.

Id. The vehicle was approximately forty (40) feet off the highway, which was closed at the time due to the hazardous driving conditions. *Id.* It was apparent to Trooper Vance that the vehicle had slid off the road at a curve in the highway, probably the previous evening. *Id.* Trooper Vance ran a license check, and found that the owner of the vehicle was "PT Holding Company," which he understood to mean that the SUV was a rental or company vehicle. App. 13a.

Trooper Vance made several radio inquiries to determine whether anyone had reported the vehicle's accident, but he was unable to find any such reports. *Id.* He then contacted State Radio to request that the vehicle be impounded by East End Towing in Dickenson, but he was told that East End Towing had already received a call from a person requesting that the vehicle be towed. *Id.*

Shortly thereafter, the East End tow truck arrived at the scene. *Id.* The tow truck driver told Trooper Vance he was supposed to meet the owner/driver with the keys to the vehicle. *Id.* The driver tried to hook up the vehicle but was unable to do so because of its distance from the highway, so he called another East End tow truck for assistance. *Id.*

Trooper Vance then left the accident scene headed toward Dickenson, where he testified he planned to search the vehicle later that day. *Id.* A few miles from the scene he saw the second East End tow truck headed for the scene and decided to return. App. 14a.

The East End tow truck hooked up the vehicle and turned it upright at about 10:33 a.m. *Id.* Trooper Vance then decided to look in the glove box of the vehicle, where he found a Budget Rent-A-Car with the rental agency's phone number.

Id. Rather than contact the agency, he continued his search by looking in the back seat of the vehicle, where he noticed several large duffel bags and a suitcase. *Id.*

Trooper Vance testified that he thought it was "unusual" that no one had arrived, but he said he did not suspect that the duffel bags contained contraband. *Id.* Nonetheless, he removed one of the duffel bags, opened it, and found that it contained numerous sealed bags of marijuana. *Id.* He then removed the rest of the duffel bags and found marijuana in them as well. *Id.*

Trooper Vance immediately contacted State Radio and requested assistance. Another officer arrived at approximately 10:52 a.m. and helped carry the duffel bags to his patrol car. App. 15a. The SUV was towed East End Towing at approximately 11:26 a.m. *Id.* There at 12:45 p.m. that same day, Trooper Vance made out an "Impoundment/Release of Property" form that described property from an "Inventory Search." Suppression Exhibit Y, App. C. The form listed the contents of one of the suitcases found in the vehicle, but said nothing about any of the duffle bags. *Id.*

The next day, Trooper Vance applied for and obtained a search warrant for the car, based on what he had already found inside it. App. 15a.

2. *The Decisions Below.*

Almost a year later, petitioner was charged with possession with intent to distribute and conspiracy to distribute the marijuana Trooper Vance found in her vehicle. App. 15a. Through counsel she made a motion to suppress. *Id.* The District Court, which had already heard and rejected

a similar motion made by the driver of petitioner's vehicle, Ms. Duong,[1] held an evidentiary hearing on the suppression motion but then denied it. App. 5a, 11a. The District Court held that Trooper Vance's impoundment and search of petitioner's vehicle, though warrantless, was lawful because it was conducted pursuant to North Dakota Highway Patrol regulations governing searches of impounded vehicles. App. 17a-24a. Alternatively, the District Court held that petitioner had no reasonable expectation of privacy in the vehicle because she had abandoned it. App. 24a-27a.

Petitioner then entered a conditional plea of guilty to a new information charging her with possession with intent to distribute marijuana, in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(D). The plea agreement preserved the right to appeal the denial of her suppression motion. App. 2a.

The Court of Appeals affirmed. *Id.* It held that "the SUV was properly impounded and the subsequent search was permissible and reasonable. . . ." App. 5a. It therefore did not consider whether the District Court had erred by holding that petitioner had no Fourth Amendment rights with respect to the vehicle because she had abandoned it. App. 9a.

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1. *United States v. Duong*, 336 F. Supp.2d 967 (D. N.D. 2004).

REASONS FOR GRANTING THE PETITION

THE DECISION BELOW CONFLICTS WITH DECISIONS OF THIS COURT AND OTHER LOWER COURTS REGARDING THE NATURE OF AND VALID GROUNDS FOR AN "IMPOUNDMENT" PERMITTING THE WARRANTLESS SEARCH OF A VEHICLE AND ITS CONTENTS.

"In applying the reasonableness standard adopted by the Framers, this Court has consistently sustained police intrusions into automobiles impounded or otherwise in lawful police custody where the process is aimed at securing or protecting the car and its contents." *South Dakota v. Opperman*, 428 U.S. 364, 373-375 (1976).

As this passage indicates, the common denominator of these cases has been the fact that the vehicles in question were physically taken into "police custody." In *Opperman* itself, the search was conducted after "the car was towed to the city impound lot." *Id.* at 366. The same was true in *Cooper v. California*, 386 U.S. 58 (1967), which *Opperman* relied upon; in *Cooper*, the car was held in police custody for almost a week before the search. *Id.* at 61-62. In *Harris v. United States*, 390 U.S. 234 (1968), evidence was observed inside a car by an officer trying "to protect the car while it was in police custody," after police arrested its driver and called "a crane . . . to tow it to the precinct." *Id.* at 236, 235. In *Cady v. Dombrowski*, 413 U.S. 433 (1973), although "the police did not have actual, physical custody of the vehicle as in *Harris* and *Cooper* . . . the vehicle had been towed [to a private garage] . . . at the officers' directions." *Id.* at 448. In *Colorado v. Bertine*, 479 U.S. 367 (1987), the search was conducted after the police had arrested the driver of the

vehicle and taken him to jail and called a "tow truck to take Bertine's van to an impoundment lot . . . ." *Id.* at 368.

Here, in contrast, the police never had physical custody of petitioners' car before Officer Vance searched it. Instead, the car was in the process of being towed to a private lot at petitioner's request and direction by a tow truck driver petitioner had called. Petitioner's car was "impounded" only in the theoretical, legal sense that the officer declared (or at least later asserted) that it was (or had been) under his authority.

In other contexts, it may be technically correct to say that in "impoundment" requires only "the custody of the law." *United States v. Louisiana*, 446 U.S. 253, 264 (1980) (quoting BLACK'S LAW DICTIONARY 681 (5th ed. 1979)). But the rationale of the Court's inventory search cases is based on *physical* not merely *legal* custody. *See, e.g., Tillison v. Gregoire*, 424 F.3d 1093, 1096 (9th Cir. 2005) ("'Impound' means to *take and hold* a vehicle in legal custody." [Emphasis added.])

Consistent with these principles and the "community caretaking" rationale of the inventory search cases, lower courts have uniformly held, in contrast to the decision below, that warrantless impoundment of vehicles is unreasonable where the owner has arranged for another person to take care and custody of the vehicle and its contents. These cases were ably summarized and followed in a recent Massachusetts lower court opinion:

> In *United States v. Goodrich*, 183 F. Supp.2d 135 (D.Mass. 2001), the defendant was arrested at a VFW Hall in Swampscott on outstanding warrants for armed robbery. The defendant arrived

at the location driving a car that belonged to his sister. Before the defendant was transported to the police station, he gave the car keys to his wife who also was present. The court found that the police took the keys from his wife and conducted an inventory search of the vehicle. They found a firearm inside a duffel bag in the trunk. After completing the inventory search, the police allowed the defendant's wife to remove some personal belongings from the vehicle and asked her to notify her sister-in-law, the actual owner of the car, that it would be towed.

On these facts, the *Goodrich* court held that the inventory search was illegal because the initial decision to impound the car was constitutionally flawed. *Id.* at 140, citing *United States v. Duguay*, 93 F.3d 346, 353 (7th Cir. 1996) "Impoundment based solely on an arrestee's status as a driver, owner or passenger is irrational and inconsistent with caretaking functions [because it ignores] whether another person could have removed the car and readily eliminated any traffic congestion, parking violation, or road hazard"). After reviewing a number of federal cases dealing with police actions impounding vehicles, the court observed that "whether an appropriate person is available to move the car is central to an evaluation of the reasonableness of any decision to seize the vehicle." *United States v. Goodrich*, *supra*, 183 F. Supp.2d at 141. A number of appellate courts in other jurisdictions have concluded that impoundment orders are constitutionally invalid in circumstances in which

the police have other reasonable alternatives that are readily available to them. *See, e.g., State v. Ludvicek*, 147 Ga.App. 784, 250 S.E.2d 503 (1978) (police had no right to impound a motor vehicle and conduct an inventory search in circumstances in which the defendant-operator was arrested for drunk driving, there was reason to believe that the vehicle belonged to his girlfriend who was waiting for him at her home, and a licensed passenger was willing to deliver the vehicle to the owner without at least making an inquiry of the lawful owner); *United States v. Pannell*, 256 A.2d 925 (D.C.App. 1969) (although upon the defendant's arrest for operating without a permit, the police were authorized to impound the vehicle by driving it to a secure police lot, the subsequent inventory search was unreasonable under the Fourth Amendment because the defendant had made arrangements for someone to pick it up); *State v. Goodrich*, 256 N.W.2d 506 (Minn. 1977) (impoundment of a motor vehicle and the subsequent inventory search was unreasonable under the Fourth Amendment because the defendant who had been arrested for operating under the influence of alcohol had already made arrangements for the disposition of his vehicle); *Drinkard v. State*, 584 S.W.2d 650 (Tenn. 1979) (police had no authority to impound defendant's vehicle following his arrest for drunk driving based on the availability of the defendant's companion-passenger to drive the vehicle from the scene; "if the circumstances that bring the vehicle to the attention of the police in the first place are such that the driver, even though

> arrested, is able to make his or her own arrangements for the custody of the vehicle . . . the police should permit the action to be taken rather than impound the car against the will of he driver and then search it").

Commonwealth v. Naughton, 16 Mass. L. Rep. 43 (Mass. Super. Ct. 2003); *accord*, *Virgil v. Superior Court*, 268 Cal.App.2d 127, 73 Cal.Rptr. 793 (1968); *State v. Boste*r, 217 Kan. 618, 539 P.2d 294 (1975); *Altman v. State*, 335 So.2d 626 (Fla.App. 1976); *State v. Gaut*, 357 So.2d 513 (La.1978), *State v. Bales*, 15 Wash.App. 834, 552 P.2d 688 (1976); *see also Miranda v. City of Cornelius*, 429 F.3d 858 (9th Cir. 2005) (holding impoundment of vehicle from owner's driveway following citation unreasonable under clearly established law).

As pointed out in the Seventh Circuit opinion in *United States v. Duguay*, where a driver has placed his vehicle in the safe custody of another, the rationale for "community caretaking" seizures and inventory searches simply disappears:

> The state owes no legal duty to protect things outside its custody from private injury. *Cf. DeShaney v. Winnebago County Dep't of Social Servs.*, 489 U.S. 189, 103 L. Ed. 2d 249, 109 S. Ct. 998 (1989); *J.O. v. Alton Community Unit School Dist. 11*, 909 F.2d 267, 272 (7th Cir. 1990).

Duguay, 93 F.3d at 353.

Although this Court has never considered such a case, its decisions have long made it clear that personal effects

placed in the hands of lawful bailees retain the protection of the Fourth Amendment. *See Ex parte Jackson*, 96 U.S. 727 (1878); *United States v. Van Leeuwen*, 397 U.S. 249 (1970); *United States v. Jacobsen*, 466 U.S. 109, 114 (1984).

The decision below conflicts with all these cases and works an unprecedented expansion of police authority to impound vehicles and search of their contents. Because that law exempts such seizures and searches from both the warrant and cause requirements of the Fourth Amendment, *see Colorado v. Bertine*, 479 U.S. at 372, its unprincipled expansion constitutes an unusual threat to the Amendment's protections. For both those reasons, certiorari should be granted here. Supreme Court Rule 10(a) and (c).

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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APPENDIX

APPENDIX A — OPINION OF THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT FILED JANUARY 22, 2007

UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

No. 06-2224

United States of America,

Appellee,

v.

Kimhong Thi Le,

Appellant.

November 16, 2006, Submitted

January 22, 2007, Filed

Appeal from the United States District Court for the District of North Dakota.

JUDGES: Before LOKEN, Chief Judge, MELLOY, Circuit Judge, SCHILTZ, District Judge.[1]

OPINION BY: MELLOY

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1. The Honorable Patrick J. Schiltz, Judge, United States District Court for the District of Minnesota, sitting by designation.

Appendix A

OPINION: MELLOY, Circuit Judge.

Kimhong Thi Le was charged with possession with intent to distribute and conspiracy to distribute marijuana. Le moved to suppress the marijuana upon which her charges were based, alleging that her *Fourth Amendment* rights were violated when an officer impounded and conducted an inventory search of the rental vehicle in which she had been a passenger. After the district court[2] denied Le's motion to suppress, Le entered a conditional plea of guilty to an information charging her with possession with intent to distribute marijuana, in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(D). Le reserved the right to appeal the denial of her suppression motion. We affirm.

I. Background

On February 9, 2004, Le and Diana Courtney Duong departed from Seattle, Washington, en route to Minneapolis, Minnesota, in a rented sport utility vehicle (SUV). Inside the SUV, the women carried four large duffle bags belonging to Le; the duffle bags contained 216 pounds of marijuana in numerous heat-sealed bags.

On February 10, 2004, Duong lost control of the SUV as the women encountered a blizzard while driving eastbound on I-94, an interstate highway through western North Dakota. The SUV careened off of the road, rolled over onto its side, and came to rest in a snow-covered ditch about forty feet

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2. The Honorable Daniel L. Hovland, Chief Judge, United States District Court for the District of North Dakota.

from the south side of I-94. Neither woman was injured and they left the SUV.

At approximately 8:50 a.m. on February 11, 2004, North Dakota Highway Patrol Trooper Will Vance came across Duong and Le's overturned SUV. No one was present at the accident site. Trooper Vance conducted a license check on the vehicle and, from the information he gathered, concluded that the SUV was either a rental vehicle or a company car. Trooper Vance contacted various local law enforcement agencies to determine whether the accident involving the SUV had been reported, as required by North Dakota law; no reports had been received.

The North Dakota Highway Patrol Policy Manual states that if a vehicle "constitutes a hazard, the vehicle will be considered abandoned and will be impounded and moved to an authorized area for safekeeping." Because of the SUV's proximity to I-94 and the continuing poor road conditions, Trooper Vance believed the overturned vehicle constituted a hazard and therefore decided to impound it. After Trooper Vance requested East End Towing impound the vehicle, he learned that a woman had called the towing company earlier that morning seeking to have the SUV towed.

East End Towing was finally able to return the SUV to an upright position at approximately 10:33 a.m. After the vehicle was righted, Trooper Vance checked the glove compartment for documents identifying the vehicle's owner. The compartment contained a card from Budget Rent-A-Car with the company's phone number; no other information was found.

Appendix A

After checking the glove compartment, Trooper Vance noticed several large, black duffle bags in the back seat area, along with a suitcase. None of the luggage had identification tags. Trooper Vance then conducted an inventory search of the vehicle, consistent with Highway Patrol policy for vehicles being impounded. He removed one of the duffle bags from the car, opened it, and found numerous heat-sealed bags of marijuana. The remaining duffle bags, which also contained marijuana, were removed from the vehicle. Trooper Vance cataloged the contents of the vehicle on the required inventory search form and completed evidence documentation for the contraband items found in the vehicle.

No one associated with the vehicle arrived at the scene during the two hours before the car was righted, or any time on February 11, 2004, despite contact between a person claiming an interest in the car and East End Towing.

Le was eventually identified as the passenger in the SUV and was charged with possession with intent to distribute marijuana and conspiracy to distribute marijuana. Le filed a motion to suppress the evidence obtained during Trooper Vance's inventory search of the wrecked SUV. Le asserted the impoundment and inventory search of the SUV were unreasonable considering the totality of the circumstances, thereby violating her *Fourth Amendment* right to be free from unreasonable searches and seizures. Specifically, Le argued that the SUV was unconstitutionally impounded, and the subsequent search therefore also impermissible, because the decision to impound the SUV was made pursuant to a policy vesting officers with excessive discretion.

Appendix A

The district court rejected Le's arguments and denied the motion to suppress. The court held that the impoundment and inventory search of the SUV were reasonable based upon the totality of the circumstances. In the alternative, the court concluded that the SUV was abandoned on the morning of February 11, 2004, rendering Le unable to pursue a Fourth Amendment claim.

After the district court's ruling, Le entered a conditional guilty plea to an information charging her with possession with intent to distribute marijuana, in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(D). Le was sentenced to thirty months of imprisonment.

II. Discussion

"When considering the denial of a motion to suppress evidence, we review the district court's factual findings for clear error and its legal conclusions *de novo*." *United States v. Petty*, 367 F.3d 1009, 1011 (8th Cir. 2004).

Le contends that the SUV was unlawfully impounded, rendering the accompanying inventory search unconstitutional. Le further argues that the search was unreasonable, considering the totality of the circumstances. Thus, Le asserts the marijuana found during the inventory search must be suppressed. We disagree. Because we conclude the SUV was properly impounded and the subsequent search was permissible and reasonable, we affirm the district court's denial of the motion to suppress.

Appendix A

The Fourth Amendment prohibits unreasonable searches and seizures. U.S. Const. amend. IV. Generally, searches or seizures conducted without prior approval by a judge or magistrate are unreasonable under the Fourth Amendment. *United States v. Marshall*, 986 F.2d 1171, 1173 (8th Cir. 1993). However, there are "a few specifically established and well-delineated exceptions" to this "cardinal principle." *Id.* (internal quotations omitted). The Supreme Court has recognized such an exception to the warrant requirement for searching a vehicle lawfully impounded by law enforcement officers. *Cady v. Dombrowski*, 413 U.S. 433, 446-48, 93 S. Ct. 2523, 37 L. Ed. 2d 706 (1973). "Impoundment of a vehicle for the safety of the property and the public is a valid 'community caretaking' function of the police," which does not require a warrant. *Petty*, 367 F.3d at 1011-12 (quoting *Dombrowski*, 413 U.S. at 441).

The impounding of a vehicle passes constitutional muster so long as the decision to impound is guided by a standard policy - even a policy that provides officers with discretion as to the proper course of action to take - and the decision is made "on the basis of something other than suspicion of evidence of criminal activity." *Colorado v. Bertine*, 479 U.S. 367, 375, 107 S. Ct. 738, 93 L. Ed. 2d 739 (1987). These parameters are designed "to ensure that impoundments and inventory searches are not merely a ruse for general rummaging in order to discover incriminating evidence." *Petty*, 367 F.3d at 1012 (internal quotation omitted).

Trooper Vance acted according to standard procedures when he decided to impound the SUV he found overturned on the side of the interstate during extreme weather

conditions. The North Dakota Highway Patrol Policy Manual provides for the impounding of a vehicle that constitutes a hazard. While this policy vests officers with some discretion to determine whether a vehicle is a "hazard," the criteria listed in the Policy Manual are sufficiently standardized to comport with the Fourth Amendment's reasonableness requirement. *See Petty*, 367 F.3d at 1012 (stating that a policy requiring officers to use their judgment to determine whether a driver is "available" or a car is "abandoned" is sufficiently standardized to satisfy the reasonableness requirement of the Fourth Amendment). "So long as the officer's residual judgment is exercised based on legitimate concerns related to the purposes of an impoundment, his decision to impound a particular vehicle does not run afoul of the Constitution." *Id.*

Trooper Vance encountered the overturned SUV early in the morning following a blizzard. The accident had not been reported to law enforcement and no one was present with the vehicle, nor did anyone ever appear to claim an interest in the SUV. The wreck was forty feet from the roadway. Trooper Vance expressed a legitimate concern that passing motorists would feel compelled to stop and attempt to assist any occupants of the vehicle, a hazardous endeavor considering the continuing poor road conditions. There was no evidence suggesting any motive other than a concern for safety underlying Trooper Vance's decision to impound the SUV. Based on these circumstances, Trooper Vance had a sufficient basis to conclude that the SUV should be impounded.

Having concluded that the decision to impound the SUV passes constitutional muster, we turn to the ensuing search. Law enforcement may search a lawfully impounded vehicle to inventory its contents without obtaining a warrant. *See South Dakota v. Opperman*, 428 U.S. 364, 376, 96 S. Ct. 3092, 49 L. Ed. 2d 1000 (1976); *United States v. Pappas*, 452 F.3d 767, 771 (8th Cir 2006) ("An inventory search by police prior to the impoundment of a vehicle is generally a constitutionally reasonable search."). The reasonableness of an inventory search is determined based upon the totality of the circumstances. *United States v. Beal*, 430 F.3d 950, 954 (8th Cir. 2005). Those circumstances include whether the search was conducted according to standardized procedures. *Opperman*, 428 U.S. at 376.

Trooper Vance's search of the SUV, including opening the duffle bags containing the marijuana, was consistent with North Dakota Highway Patrol policy to "conduct a detailed inspection and inventory of all impounded vehicles." Trooper Vance testified that he was trained to open closed containers during inventory searches and that it is his standard practice to do so. Such oral testimony is sufficient to establish the requisite standardized procedures required to comport with the Fourth Amendment. *See United States v. Lowe*, 9 F.3d 43, 46 (8th Cir. 1993) (holding that evidence of a written policy is not required and that oral testimony about a standard policy to open closed containers during an inventory search is sufficient to meet the Fourth Amendment's reasonableness requirement). Thus, the search did not run afoul of the Constitution.

Appendix A

Because we conclude the search and seizure of the SUV did not violate the Fourth Amendment, we need not consider the district court's alternative holding that the SUV was abandoned.

III. Conclusion

For the reasons stated herein, the judgment of the district court is affirmed.

APPENDIX B — OPINION OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NORTH DAKOTA, SOUTHWESTERN DIVISION FILED NOVEMBER 28, 2005

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NORTH DAKOTA, SOUTHWESTERN DIVISION

Case No. C1-05-02

United States of America,

Plaintiff,

-vs-

Kimhong Thi Le,

Defendant.

November 28, 2005, Decided

November 28, 2005, Filed

JUDGES: Daniel L. Hovland, Chief Judge.

OPINION BY: Daniel L. Hovland

Appendix B

OPINION:

ORDER DENYING DEFENDANT'S MOTION TO SUPPRESS

Before the Court is the defendant, Kimhong Thi Le's Motion to Suppress Evidence filed on August 26, 2005. The motion to suppress relates to evidence seized by law enforcement officers on February 11, 2004. The Government has filed a response resisting the motion. An evidentiary hearing was held on November 8, 2005, in Bismarck, North Dakota. For the reasons outlined below, the motion to suppress is denied.

I. BACKGROUND

On February 9, 2004, an individual named Thanh Mai Truong, rented a 2004 Mitsubishi Endeavor SUV with Washington license plates at the Seattle-Tacoma Airport in King County, Washington. Four (4) black duffel bags belonging to the defendant, Kimhong Thi Le, were loaded into the vehicle later that day. See Kimhong Le's Affidavit Supporting Motion to Suppress (Docket No. 42). Each bag was approximately four feet long and two feet high and contained numerous sealed bags of marijuana. Kimhong Thi Le and an individual named Diana Courtney Duong began driving the SUV from Seattle, Washington, to Minneapolis, Minnesota. *Id.*

On February 10, 2004, while driving east bound on the interstate highway (I-94), the two women encountered severe winter in western North Dakota. Diana Duong, the driver of

the SUV, lost control of the vehicle and went off the interstate highway into a snow-covered ditch on the south side of I-94. The SUV rolled onto its side, but neither woman was injured.

The next morning, on February 11, 2004, "East End Towing" in Dickinson, North Dakota, was contacted by a woman to have the vehicle removed. Sometime after 8:00 a.m. on February 11, 2004, an East End Towing tow truck was dispatched to recover the SUV at mile marker 32 on I-94.

That same day, North Dakota Highway Patrolman Will Vance began his shift at 8:00 a.m. and was driving east bound on I-94 between Belfield and Medora, North Dakota. The winter weather conditions caused the interstate highway in that area to be closed the previous evening. Trooper Vance believed the roads were still closed when his shift began at 8:00 a.m. that morning. He said the highway was glare ice and travel speeds ranged from 40-45 mph. At approximately 8:50 a.m., Trooper Vance came across the SUV lying in the south ditch of the east bound lane of I-94. The SUV was lying on its side approximately 40 feet from the highway. It appeared to Trooper Vance that the vehicle had slid off the road at a slight curve in the highway. Trooper Vance did not know precisely how long the vehicle had been there, but he suspected that it had gone off the road sometime the previous evening of February 10, 2004. Although the conditions had improved overnight, Trooper Vance still described the interstate as being in "very poor" condition and "extremely icy." There was no one at the accident site when the trooper arrived on location. A license check revealed that the owner

of the vehicle was "PT Holding Company" which led him to believe that the SUV was a rental or company vehicle.

Trooper Vance immediately contacted several entities to determine whether any accidents had been reported. He contacted the Billings County Sheriff's Department, the Stark County Law Enforcement Center, and other highway patrol officers that were on duty the previous evening. No one had received an accident report for the SUV. Trooper Vance then requested that State Radio contact East End Towing in Dickinson to have the vehicle impounded. Trooper Vance's decision to impound the vehicle was based on his belief that the vehicle constituted a hazard under the circumstances due to its close proximity to I-94 and the poor road conditions. Trooper Vance learned that East End Towing had already received a call from a person requesting that the vehicle be towed.

When the tow truck arrived at the scene, the East End Towing employee explained to Trooper Vance that the towing company was supposed to meet the owner/driver to obtain the keys to the vehicle. However, no one showed up to make the exchange at or near the site of the accident. The tow truck did not have enough cable to reach the SUV due to its distance from the interstate highway so another East End Towing employee was called for assistance.

Trooper Vance had initially decided to leave the vehicle after the tow truck arrived and conduct an inventory search later that same day in Dickinson. However, shortly after he left the scene of the accident, Trooper Vance met the other

Appendix B

East End Towing employee on I-94 and, thereafter, the trooper decided to return to the scene of the rollover.

The SUV vehicle was turned upright by East End Towing around 10:33 a.m. on February 11, 2004. At that time, Trooper Vance checked the glove box of the vehicle for any documentation to identify the owner. The trooper was only able to locate a card from Budget Rent-A-Car which revealed no information other than a telephone number for the rental agency. Trooper Vance then looked in the back seat of the SUV and noticed the back seats were folded down. There were several large, black duffel bags and a suitcase located in the back seat area. Neither the duffel bags nor the suitcase had any identification tags. Trooper Vance decided to conduct a brief inventory search at that time. Trooper Vance said he believed there was a need to conduct an inventory search before the SUV was taken from the scene by the towing company. Trooper Vance said that if the owner/driver had arrived on location at the accident site, he would have allowed the owner/driver to take the luggage and bags from the vehicle. However, no owner/driver had arrived on location despite the fact that someone (an unknown female) had agreed to meet the towing company with the keys. Trooper Vance testified that it was "unusual" for no one to arrive and claim ownership of the car for 2 1/2 -3 hours after the towing company had first been contacted. The trooper said that he had no idea what was in the duffel bags and he had no suspicion the bags contained contraband. Trooper Vance removed one of the large duffel bags, opened it, and found that it contained numerous sealed bags of marijuana. Trooper Vance then removed the remaining duffel bags, all of which contained several hundred pounds of marijuana.

Trooper Vance immediately contacted State Radio and other law enforcement officers to request assistance. Deputy Sheriff Pat Rummel arrived at the scene at approximately 10:52 a.m. Deputy Rummel helped carry the duffel bags to his patrol car because they were too large to fit in Trooper Vance's vehicle. The SUV was towed away at approximately 11:26 a.m. and was taken to East End Towing in Dickinson, North Dakota.

Trooper Vance obtained a search warrant on February 12, 2004. Law enforcement officers conducted a complete search of the vehicle later that day. Although several calls went back and forth between East End Towing personnel and the owner/driver of the vehicle, no one ever showed up to claim an ownership interest in the vehicle on February 11, 2004, or at anytime thereafter.

On January 13, 2005, Le was charged in federal court with Conspiracy to Distribute and Possess with Intent to Distribute a Controlled Substance. On August 26, 2005, Le filed the present motion.

II. LEGAL DISCUSSION

A. INVENTORY SEARCH

The Fourth Amendment secures the persons, houses, papers, and effects of the people against unreasonable searches and seizures by the government. The general rule is that the government must secure a warrant before conducting a search. *United States v. Alberts,* 721 F.2d 636, 638 (8th Cir. 1983). However, "law enforcement may search a lawfully

impounded vehicle to compile an inventory list of the vehicle's contents without violating the Fourth Amendment." *United States v. Rowland*, 341 F.3d 774, 779 (8th Cir. 2003) (citing *South Dakota v. Opperman*, 428 U.S. 364, 376, 96 S. Ct. 3092, 49 L. Ed. 2d 1000 (1976)). These searches can be conducted without a search warrant or probable cause. *Rowland*, 341 F.3d 774, 779. The inventory search exception to the warrant requirement was created because police are performing an "administrative or caretaking function rather than a criminal investigatory function when they impound an automobile." *United States v. Marshall*, 986 F.2d 1171, 1174 (8th Cir. 1993). The impoundment of a vehicle for the safety of the property is a legitimate "community caretaking" function of the police. *United States v. Petty*, 367 F.3d 1009, 1011 (8th Cir. 2004). Inventory searches "serve to protect an owner's property while it is in the custody of the police, to insure against claims of lost, stolen, or vandalized property, and to guard the police from danger." *Colorado v. Bertine*, 479 U.S. 367, 372, 107 S. Ct. 738, 93 L. Ed. 2d 739 (1987).

The relevant inquiry is whether, under the totality of the circumstances, the inventory search was reasonable. Inventory searches will be considered reasonable if "conducted according to standardized police procedures, which vitiate concerns of an investigatory motive or excessive discretion." *United States v. Marshall*, 986 F.2d 1171, 1174 (8th Cir. 1993) (citing *Opperman*, 428 U.S. 364, 372, 96 S. Ct. 3092, 49 L. Ed. 2d 1000; *Bertine*, 479 U.S. 367, 376, 107 S. Ct. 738, 93 L. Ed. 2d 739; *Florida v. Wells*, 495 U.S. 1, 4, 110 S. Ct. 1632, 109 L. Ed. 2d 1 (1990)).

Appendix B

1. THE IMPOUNDMENT

It is well-established that law enforcement officers can exercise discretion when deciding whether to impound a vehicle "so long as that discretion is exercised according to standard criteria and on the basis of something other than suspicion of evidence of criminal activity." *Colorado v. Bertine*, 479 U.S. 367, 375, 107 S. Ct. 738, 93 L. Ed. 2d 739 (1987). "Some degree of 'standardized criteria' or 'established routine' must regulate such police actions, which may be conducted without the safeguards of a warrant or probable cause, to ensure that impoundments and inventory searches are not merely 'a ruse for general rummaging in order to discover incriminating evidence.'" *United States v. Petty*, 367 F.3d 1009, 1012 (8th Cir. 2004). Such a requirement does not mean that the decision to impound or inventory must be made in a "totally mechanical fashion." *Id.* An impoundment policy can allow "'some latitude' and 'exercise of judgment' by a police officer when those decisions are based on concerns related to the purposes of an impoundment." *Id.* (citing *Florida v. Wells*, 495 U.S. 1, 4, 110 S. Ct. 1632, 109 L. Ed. 2d 1 (1990)). Because it is not possible for police departments to have guidelines for every impoundment situation, the absence of such mechanical rules will not necessarily make the impoundment unconstitutional. The defendant argues that the seizure was invalid because the Government failed to present evidence of a standard impoundment policy to guide the exercise of police discretion.

During the suppression hearing on November 8, 2005, the Government introduced an exhibit entitled "North Dakota

Highway Patrol Policy Manual." A section of that Manual is entitled "Impoundment of Property and Evidence Control." See Exhibit No. 7. The stated purpose of that section is "to establish guidelines for impounding and releasing property and maintaining the integrity of the evidentiary chain of custody." Section "K" of the Manual pertains to "Abandoned Motor Vehicles" and contains the following provisions:

> 1. Officers finding unattended motor vehicles on a highway right of way shall immediately start action to ascertain ownership through State Radio, by telephone, or in person; and if the vehicle is determined to be stolen, shall take custody immediately.
>
> 2. If the officer is unable to locate the owner of the motor vehicle and the vehicle has not been reported as stolen and is not in violation of section 24-03-23 NDCC and it has been unattended for a period of 48 hours or constitutes a hazard, the vehicle will be considered abandoned and will be impounded and moved to an authorized area for safekeeping.

(emphasis added).

The testimony of Trooper Vance reveals that he made a good faith effort to follow these provisions of the Highway Patrol Policy Manual. He immediately contacted several local law enforcement agencies through State Radio to determine whether any accidents had been reported. North Dakota law

requires that all accidents resulting in over one thousand dollars worth of damage be reported to state authorities. See N.D. Cent. Code § 39-08-09. A brief inspection of the vehicle revealed that the SUV roof had sustained a partially crushed hood and the body had sustained several dents. Trooper Vance testified that he has responded to 200-300 automobile accidents and that there was "no doubt" in his mind that the damage sustained was in excess of one thousand dollars.

It is undisputed that Trooper Vance was unable to locate the owner/driver of the SUV. In Trooper Vance's opinion, the vehicle constituted a "hazard" because of its location relative to the interstate highway. In his experience, other drivers have a tendency to help stranded vehicles in the winter. Due to the inclement weather, Trooper Vance believed that it would be dangerous to leave the vehicle in the ditch because other drivers may try to stop on the icy interstate highway to lend assistance. On the morning of February 11, 2004, the trooper reasonably believed the vehicle constituted a "hazard" and could create additional problems as a result of the icy conditions that existed at the time. Under North Dakota Highway Patrol policies and procedures, vehicles are to be towed when they constitute a "hazard."

Following North Dakota Highway Patrol procedure, Trooper Vance had the SUV vehicle impounded. It is undisputed that the decision to impound the vehicle was clearly not based on any suspicion of criminal activity. To the contrary, Trooper Vance had not even entered the vehicle when he made the decision to call East End Towing and have the vehicle recovered from the interstate highway and impounded. The trooper impounded the vehicle because it

had been left unoccupied after an accident and constituted a hazard, nothing more. The record fails to reveal any evidence that the impoundment and inventory search were undertaken simply to search for incriminating evidence.

The Court agrees that, in hindsight, the likelihood a hazard existed was minimized by the arrival of Trooper Vance and East End Towing at the scene of the accident on February 11, 2004, at approximately 8:50 a.m. However, Trooper Vance's decision to impound the vehicle after 8:50 a.m. was reasonable based on the circumstances he was confronted with. The Court finds that the North Dakota Highway Patrol Policy Manual provides sufficient "standardized procedures" for impounding vehicles so that Trooper Vance's decision to impound the SUV was reasonable based on the totality of the circumstances. Finally, the Court finds that the officer's decision to impound the vehicle was based on legitimate caretaking concerns related solely to the purposes of an impoundment and, as such, does not run afoul of the Constitution.

2. THE SEARCH

A legitimate seizure does not automatically justify an unlimited search of the automobile. *United States v. Wilson*, 636 F.2d 1161, 1163 (8th Cir. 1980). The scope of the inventory search that follows must also comport with the reasonableness requirement of the Fourth Amendment. An inventory search generally serves legitimate governmental interests of protecting the owner's valuables, protecting the police from false claims of theft or damage, and protecting the police from danger. However, standardized inventory

criteria, procedures, or routines must exist as a precondition to a valid inventory search. "When the police follow standardized inventory procedures that impact all impounded vehicles in a similar manner and sufficiently regulate the discretion of the officers conducting the search, the reasonableness requirement of the Fourth Amendment is satisfied." *United States v. Marshall,* 986 F.2d 1171, 1176 (8th Cir. 1993). Officers are allowed to "keep their eyes open for potentially incriminating items that they might discover in the course of an inventory search, as long as their sole purpose is not to investigate a crime." *Id.*

During the course of an inventory search, law enforcement officers are permitted to open closed containers "only if they are following standard police procedures that mandate the opening of such containers in every impounded vehicle." *Colorado v. Bertine,* 479 U.S. 367, 376-77, 107 S. Ct. 738, 93 L. Ed. 2d 739 (1987); see *Florida v. Wells,* 495 U.S. 1, 4, 110 S. Ct. 1632, 109 L. Ed. 2d 1 (1990). It is well-established that written inventory procedures are not an absolute requirement and that oral testimony is sufficient to establish such a police procedure. See *United States v. Petty,* 367 F.3d 1009, 1012 (8th Cir. 2004); *United States v. Lowe,* 9 F.3d 43, 46 (8th Cir. 1993).

The North Dakota Highway Patrol Policy Manual provides that "officers will conduct a detailed inspection and inventory of all impounded vehicles." See Exhibit No.1, P (E)(2). Trooper Vance testified that North Dakota Highway Patrol officers are trained to open closed containers in the course of performing inventory searches. To that end, it was, and is, his common practice to open closed containers when

conducting inventory searches. Trooper Vance testified that he does this to protect himself, the Highway Patrol, the towing company, and the owner. The four large duffel bags in question were each approximately four feet long. Trooper Vance said duffel bags of that size could contain almost anything. Under North Dakota Highway Patrol policy, the individual officer is accountable for all inventoried property. The duffel bags were large enough that they could have contained hazardous or dangerous materials, money, jewelry, guns, etc. A thorough inventory search, which included the opening of closed containers (the duffel bags), was warranted to best safeguard the North Dakota Highway Patrol as well as the towing company, and such actions were in keeping with Highway Patrol standardized training which endorses such a practice.

In closing arguments, counsel for the Defendant argued that Trooper Vance admitted that he retains some discretion in deciding whether or not to open closed containers during inventory searches. The Defendant contends that such an admission taints Trooper Vance's decision to open the duffel bags in this case. This argument is based primarily on *Colorado v. Bertine*, 479 U.S. 367, 375, 107 S. Ct. 738, 93 L. Ed. 2d 739 (1987). However, the United States Supreme Court has made it clear that officers may exercise some discretion in determining whether to open closed containers so long as that discretion is exercised according to standard criteria and is not based on a suspicion of criminal activity. See *Florida v. Wells*, 495 U.S. 1, 3-5, 110 S. Ct. 1632, 109 L. Ed. 2d 1 (1990). In other words, some degree of standardized criteria or an established routine must regulate police actions to ensure that impoundments and inventory

searches are not simply a ruse for general rummaging to discover incriminating evidence.

Based on the evidence presented in this particular case, the Court is satisfied that Trooper Vance's decision to open the duffel bags was based on his overall experience with motor vehicle impoundments, his training, and his desire to conduct a "detailed" inventory in accordance with his training and standardized procedures employed by the Highway Patrol. There was no evidence presented that directly, or even indirectly, suggests that the decision to open the duffel bags was based on any suspicion of criminal activity.

In summary, the Court finds that Trooper Vance attempted in good faith to carry out North Dakota Highway Patrol impoundment and inventory search policies and procedures in a reasonable manner. Further, the Court finds that Trooper Vance evinced no investigatory motive at the time he initially opened the zipped duffel bags which were sitting unlocked in the back seat of an unclaimed SUV. The Court is satisfied that there is no direct or indirect evidence of an investigatory motive on the part of Trooper Vance and that finding is critical in this case. The law allows Trooper Vance to keep his eyes open for incriminating evidence while conducting an inventory search and that is precisely what he did. The legal arguments raised by defense counsel were well-researched, well-reasoned, and raise legitimate questions concerning the impoundment and inventory search policies of the North Dakota Highway Patrol. However, the Court expressly finds that the impoundment of the SUV and the inventory search conducted were reasonable and pass constitutional muster.

The Court finds that the inventory search of the vehicle and the duffel bags was reasonable based upon the totality of the circumstances. The testimony of Trooper Vance supports the finding that the inventory search was conducted in accordance with standardized procedures and criteria adopted by the North Dakota Highway Patrol. In *United States v. Marshall*, 986 F.2d 1171 (8th Cir. 1993), the Eighth Circuit recognized that inventory searches conducted according to standardized police procedures are reasonable. Such procedures can be established by written documentation or by oral testimony. In this case, there existed reasonable regulations relating to inventory procedures, and the procedures employed by the North Dakota Highway Patrol and Trooper Vance were administered in good faith which satisfies the Fourth Amendment.

B. ABANDONMENT

It is also well-established that even if an individual establishes a legitimate expectation of privacy in a piece of property, that expectation can later be abandoned. *United States v. Tate*, 821 F.2d 1328, 1330 (8th Cir. 1987) (citing *United States v. Biondich*, 652 F2d 743, 745 (8th Cir. 1981)); see *Abel v. United States*, 362 U.S. 217, 241, 80 S. Ct. 683, 4 L. Ed. 2d 668 (1960). A warrant is not required to conduct a search of abandoned property. *United States v. James*, 353 F.3d 606, 615-616 (8th Cir. 2003) (citing *United States v. Tugwell*, 125 F.3d 600, 602 (8th Cir. 1997)). In determining whether property has been abandoned the Court must look at the totality of the circumstances and consider the following factors: (1) whether the suspect denied ownership of the property; and (2) whether he or she physically relinquished

the property. *United States v. Caballero-Chavez,* 260 F.3d 863, 866-67 (8th Cir. 2001) (quoting *United States v. Liu,* 180 F.3d 957, 960 (8th Cir. 1999)). Whether an abandonment has occurred is based upon the objective facts available to the investigating officers, and not on the basis of the owner's subjective intent. *Tugwell,* 125 F.3d 600, 602. In other words the Court should only consider the information available to the officer at the time the search was conducted.

On February 11, 2004, at approximately 8:50 a.m., the SUV was found in a ditch along the interstate highway (I-94) unoccupied and lying on its side. East End Towing had been called by the supposed owner/driver of the vehicle and told of the vehicle's location. The owner/driver was to meet East End Towing on I-94 or at the accident site with the keys. However, neither the owner/driver nor anyone else ever met East End Towing employees at any location along the interstate highway, nor did anyone arrive at the site of the accident between the time the call was made to East End Towing and when the vehicle was removed from the ditch. The undisputed evidence clearly reveals that Trooper Vance was at the accident site for nearly two hours (8:50 a.m. - 10:33 a.m.) with no sign of an owner/driver/occupant before the vehicle was placed in an upright position and he undertook an inventory search of the vehicle. As previously noted, the vehicle was first found by Trooper Vance at 8:50 a.m. on February 11, 2004. The trooper and the towing company left the accident scene around 11:26 a.m. It is undisputed that Trooper Vance was actually at the accident site for a total of more than 2 1/2 hours (8:50 a.m. - 11:26 a.m.) and no owner/driver or occupant ever showed up. Based on the totality of the circumstances known to Trooper Vance

that morning, it reasonably appeared that the SUV had been abandoned, and likely due to the contraband contained in the vehicle. The Court finds that based on the objective facts available and known to Trooper Vance during the morning of February 11, 2004, it was reasonable for the trooper to assume that the vehicle had been abandoned and that the SUV needed to be impounded and inventoried.

Even if the Court had concluded that Trooper Vance's inventory search was unreasonable based upon the totality of the circumstances, the Court expressly finds that the SUV was abandoned the morning of February 11, 2004. All of the objective facts known to Trooper Vance on February 11, 2004, support such a finding and the admission of the evidence seized.

The defendant, Kimhong Thi Le, had a legitimate expectation of privacy in the vehicle and its contents at the outset, but that expectation of privacy was lost when 1) the vehicle was abandoned in a ditch along the interstate highway throughout the morning of February 11, 2004, particularly after a call was made to East End Towing and arrangements made to meet the towing company with the keys, 2) the defendant, or the owner/driver, failed to communicate in any manner with state authorities as required by law, 3) the defendant, or the owner/driver, failed to communicate in any manner with the towing company after approximately 8:00 a.m. and after indicating that someone would meet the towing company that morning with the keys to the SUV, and 4) the defendant, or the owner/driver, failed to rendevous with East End Towing as arranged and travel to the site of the rollover to facilitate the towing of the vehicle. It was reasonable for

Trooper Vance to assume that the vehicle had been abandoned under the circumstances - despite the poor weather conditions that morning. The evidence in the record demonstrates that the SUV was abandoned the morning of February 11, 2004, when it became readily apparent to Trooper Vance that no owner/driver/ occupant intended to present herself to claim an ownership interest in the vehicle or its contents, and no effort was made to further communicate with the towing company.

C. NORTH DAKOTA CONSTITUTION

Article 1, Section 8 of the North Dakota Constitution reads as follows:

> The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons and things to be seized.

The North Dakota Supreme Court has recognized that Article 1, Section 8 is "almost identical" to the Fourth Amendment. *State v. Rydberg*, 519 N.W.2d 306, 310 (N.D. 1994). While it is well-established that the North Dakota Constitution may afford greater protections than those granted under the United States Constitution, there is nothing to suggest that Article 1, Section 8 is too be read more broadly than its federal counterpart for purposes of the inventory search exception to the warrant requirement. Thus, the

Court's finding that the inventory search was valid under Fourth Amendment also satisfies Article 1, Section 8 of the North Dakota Constitution.

III. CONCLUSION

For the reasons outlined above, the Court **DENIES** the Defendant's Motion to Suppress Evidence (Docket No. 37).

IT IS SO ORDERED.

Dated this 28th day of November, 2005.

Daniel L. Hovland, Chief Judge

United States District Court

IMPOUNDMENT/RELEASE OF PROPERTY
NORTH DAKOTA HIGHWAY PATROL
SFN 3431 (3-96)

Case Number

☐ Hold (reason) _____

☒ Release

Date	Time	Location of Impoundment
2-11-04	1245	I94 mm 32 - East End Towing

Type of Property Impounded
Inventory Search

Owner of Property
Budget Rent A Car

Place of Storage/Person Having Custody of Property
East End Towing Dickinson

Description of Property (include serial numbers, model, make, color, etc.)

1 bag containing maxi pads, listerine pocketpaks, toothbrush, toothpaste, 1 bag pillow, 1 regular pillow, 1 teddy bear, 1 bag containing cleaners around 1 pair blue jeans, 1 black suitcase containing, lotion, toothpaste, hair brush, cellphone saver, hair clip, pajamas, sweatshirt, shirt x4, undergarments, hairbrush, blue jeans, various hygiene products, 1 bottle H_2O_2, 1 light jacket animal print, 1 can of cookies, pringles, 6 CD's, phone charging cord, 1 CD, 1 bag food,

	Receipt Number	Amount
Witness	Officer W. Dan M. Denault	

RELEASE OF PROPERTY

I hereby accept the property described herein, declare it to be in the same general condition as prior to impoundment, and release law enforcement officials and any caretakers involved of any liability whatsoever regarding such personal property.

Signature of Owner or Representative	Date
Signature of Officer	

stribution:
strict (White), Owner/driver (Yellow), Other Agency/Wrecker (Pink)
ake additional copies if necessary)

BEST AVAILABLE COPY

APPENDIX C — IMPOUND FORM